

REMARKS**A. Status of the Claims and Explanation of the Amendments**

Claims 78-80, 84-85, 88 and 90-97 are pending in this application. The Examiner set forth an election/restriction into 3 groups as follows:

Group 1: corresponding to claims 91-94, 96 and 97, drawn to a method of providing an aesthetic effect to a subject in need thereof comprising administering to the subject in need thereof a botulinum toxin (BT)

Group 2: corresponding to claims 91-94, 96 and 97, drawn to a method of providing an cosmetic effect to a subject in need thereof comprising administering to the subject in need thereof a botulinum toxin (BT)

Group 3: corresponding to claims 91-93 and 95-97, drawn to a method of reducing a symptoms associated with muscle spasm or cramping comprising administering to the subject in need thereof comprising administering to the subject a botulinum toxin (BT).

Additionally, on page 3 of the Office Action, the Examiner has required an additional election under 35 US 121(1). According to the Examiner, the Applicant is required to elect one particular type of botulinum toxin (BT) from claim 91 because BT types A through G are distinct in structure and/or function.

In response, Applicants provisionally elect Group I for prosecution (i.e., a method of providing an aesthetic effect), which is readable on claims 78-80, 84, 85, 88, and 91-94, 96, and 97. In addition, Applicants respond to the additional election set forth on page 3 of the Office Action by electing Botulinum Toxin type A.

In making these elections, Applicants respectfully disagree with the Examiner's contention that the present claims are obvious over PCT publication WO 2001062297 to Rothbard ("Rothbard"). Applicants' traversal is based on the fact that Rothbard does not destroy the single inventive concept of Applicants' claims, at least because Rothbard does not teach or suggest a "positively charged backbone having attached positively charged branching groups" as recited in Applicants' claims.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-3732, Order No. 13720-105074.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-3732, Order No. 13720-105074.

Respectfully submitted,
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